

Appl. No. 10/024,478  
Amndt. dated April 3, 2004  
Reply to Final Office Action of November 18, 2003

**REMARKS/ARGUMENTS**

This application has been carefully considered in light of the Final Office Action dated November 18, 2003 and an interview with the Examiner on April 1, 2004. Applicant thanks the Examiner for the courtesy of granting the interview with the undersigned attorney.

Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as being directly anticipated by the reference to Machledt, US Patent 6,006,944. Claims 1, 2 and 5 have been rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over Waters et al., US Patent 4,344,505 when considered in view of the reference to Brush, Jr. et al., US Patent 4,048,926.

Claim 4 has been rejected as being obvious over the combination to Waters et al. and Brush, Jr. et al. when further considered in view of US Patent 3,896,595 to Anghinetti et al. Claim 3 has been rejected as being obvious over the primary combination of Waters et al. and Brush, Jr. et al. when further considered in view of the reference to Daw et al., US Patent 4,832,153.

Claim 7 has been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of the teachings of Fuller, US Patent 4,281,743 and Porter, US Patent 5,628,158.

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Claim 9 has been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of Anghinetti et al., US Patent 3,896,595.

Claim 13 has been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of the references to Fuller, US Patent 4,281,743 and Porter, US Patent 5,628,158.

Claims 14, 15, 26 and 27 have been rejected over the combination to Waters et al. and Brush, Jr. et al.

Claim 16 has been rejected under the combination to Waters, et al. and Brush, Jr. et al. when further considered in view of the teachings of the reference to Fier, US Patent 4,302,126.

Claims 17 and 20 have been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in view of the reference to Sciambi et al., US Patent 4,591,022.

Claims 18 and 19 have also been rejected over this combination.

Claims 21 and 22 have been rejected over the combination of Waters et al., Brush, Jr. et al. and Anghinetti et al. Claim 23 has been rejected over Waters et al. and Brush, Jr. et al. when further considered in view of the additional references to Fuller and Porter and Claim 24 has been rejected over this same combination. Claim 25 has been rejected over the combination of Waters et al. and Brush, Jr. et al. when further considered in

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view of the reference to Daw et al.

Rejection of claims 1 and 2 with respect to the reference to Machledt is respectfully traversed. The reference is believed to be non-analogous art and is directed to a battery storage vault. The vault has a hinged cover 12 which is pivotable about the hinge 32. The cover includes an insulated lower portion shown at 36 which fits within the sidewalls of the vault 22 but is not believed to form a seal therewith. The seal is rather discussed as being provided at 40 between the upper edge of the vault and the lower surface of the lid 12.

Therefore, unlike the present invention, it is respectfully submitted that the insulation material shown at 36 does not provide a first seal with the inner surface of the vault body. In this respect, it is noted at column 4 of the reference beginning at approximately line 15 that the insulation 36 terminates laterally within the edges 40 of the structural member of the closure so that it will project into the space 20 without interfering with the walls 18. Therefore, the lower surface 38 includes a perimeter zone which is unencumbered by insulation 36. The closure forms a seal 18 when placed over the upper edge of the receptacle 14.

Because the lid or closure 12 is hinged, the insulation material must be of a size to permit the pivoting movement so

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that the insulation material is positioned within the sidewalls defining the vault. Therefore, the insulation material does not form a first seal with the walls of the vault and therefore does not anticipate the structure of the present invention as set forth in claims 1 and 2.

It is respectfully submitted that one of ordinary skill in the art would not look to the art of battery vaults in order to solve a problem with the insulation and closure of an attic opening as is the case with the present invention. Further, even if one were to look to the reference, the reference does not provide for a first seal by providing a lower projecting part on an insulated cover for an attic opening as is the case with the present invention and as is set forth in claim 1. Further, there is no suggestion of providing a dual seal as is set forth in applicant's claims wherein the depending central portion of the cover provides a first seal and an outer flange provides a second upper seal. No such double seal is taught in the cited reference.

Claim 1 has further been amended to indicate that at least one handle means is provided for manipulating the structure. This combination of elements is also not disclosed by the cited reference.

In view of the foregoing, reconsideration of the grounds for

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rejection with respect to the reference to Machledt is respectfully solicited.

The remaining rejections involve primarily a combination of elements set forth in the references to Waters et al. and Brush, Jr. et al. Waters et al. discloses an insulation cap for an attic stairwell which includes a frame having a lid 28 hingedly mounted at 14 to the frame. There is no discussion of providing for a depending portion for creating a seal with the frame as is the case with the present invention. Further, using the hinged structure 14, if one were to provide a depending portion as suggested by the Examiner in citing the reference to Brush, Jr. et al., one would have to provide clearance for the depending portion or the hinged structure would not be operative. Therefore, it is respectfully submitted that the combination suggested would be improper as the functionality of the closure member 28 of the reference to Waters et al. would be destroyed by the suggested combination.

In all of the obvious rejections, the primary references include a hinged lid structure which is designed to merely close off an upper surface of a frame or an opening into a structure. The prior art does not disclose providing a depending wall structure for providing a first seal within the frame of the opening into the attic, or into a separate frame, in combination

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with a second seal being created by an upper lid. Applicant's seal structures provide for a unique manner of preventing heat lost into an attic of a building structure and thus provides a unique benefit which is not suggested nor disclosed by the reference to Waters et al. nor the reference to Brush, Jr. et al.

It is also respectfully submitted that the reference to Brush, Jr. et al is non-analogous art with respect to the field of attic closures. It is not believed that one of ordinary skill in the field of attic closures would look to a safe structure as disclosed in Brush, Jr. et al. in order to modify the attic closure. The field of safes is a completely separate field.

Further, it should be noted that the structure in Brush, Jr. et al. does not provide for a seal at the closure point until such time as the materials at the joint are subject to heat. Brush, Jr. et al. specifically teaches that a coating of the closure lid is provided which will form a seal when subjected to elevated temperatures such as experienced during a fire. Therefore, the reference does not teach providing a seal by providing an inner portion which frictionally fits within an outer frame as disclosed by the present invention.

To reiterate, even if one were to provide a portion of the structure disclosed in Brush, Jr. et al. with the structure disclosed in Waters et al., the structure would only be

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functional if clearance is provided to permit the pivoting of the lid 28 of Waters et al. about the hinges 14 and thus no seal would be provided within the frame of the Waters et al. structure. Therefore, the suggested combination can not meet the inventive characteristics nor the claim limitations which define applicant's invention in the currently amended claims.

In view of the foregoing, even if one were to combine the remaining references, the overall combination of elements would not anticipate applicant's structure because of the basic distinctions set forth above. In light of the foregoing, any of the structures from any of the secondary references, in combination, would not provide a structure providing the first inner seal nor the outer upper seal as disclosed with respect to the present invention.

In view of the foregoing, reconsideration of the grounds for rejection under 35 U.S.C. § 103(a) over combinations of references including Waters et al. and Brush, Jr. et al. is respectfully solicited and favorable consideration and allowance of the claims requested.

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A request for an extension of time is submitted herewith.

Respectfully submitted,

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By

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